

REMARKS

Claims 1-24 are pending.

Claims 1, 17, 20 and 23 have been amended to specify that a drug is dispersed in "at least said polymer matrix." Support for the amendment can be found at least in the claims and at paragraph [0040] of the description as originally filed.

The Examiner divides the claims into three groups, namely,

- I: claims 1-15, drawn to a method of forming a polymer;
- II: claims 16-22, drawn to a polymer; and
- III: claims 23-24, drawn to a method of delivering an ophthalmic drug,

and requires restriction to one of the groups.

Applicants respectfully traverse the restriction requirement. And although certain claims are designated "withdrawn" to satisfy Patent Office procedural requirements, that designation should not be taken agreement by the Applicants that the restriction requirement is appropriate.

The Examiner agrees that a special technical feature exists in Groups I-III, which is the porous polymer recited in the former claims. However, the Examiner states that the former claims are not so linked as to form a single inventive concept because US 6,451,348 to Jeong et al ("Jeong") discloses the porous polymer recited in the former claims of the present application. In

particular, the Examiner states that "As disclosed in US 6,451,348, a porous polymer defining interconnected pores with a drug dispersed inside the pores and capable of being released [...] is not novel."

Applicants respectfully disagree for at least the following reasons.

Careful review of Jeong reveals that it does not disclose or suggest that the pores defined by the polymer matrix formed from the microemulsion disclosed in Jeong are interconnected. As described in the present application, when a bicontinuous microemulsion is polymerized, the pores formed by one of the two continuous phases in the microemulsion are interconnected. However, there is no disclosure or suggestion in Jeong of the use of a bicontinuous microemulsion for forming its polymer.

Further, each of the independent claims, claims 1, 17, 20 and 23, as currently amended, recites that a drug is dispersed at least in the polymer matrix that defines the interconnected pores. In contrast, Jeong, as noted by the Examiner, discloses dispersing a drug inside the pores, but does not disclose or suggest dispersing the drug in the polymer matrix that defines the pores.

Thus, Jeong fails to disclose or suggest the special technical feature of a porous polymer comprising a polymer matrix defining interconnected pores with a drug dispersed in at least the polymer matrix, in combination with other limitations recited in the present application. Therefore, it is respectfully submitted that, in view of this special technical feature, Group I-III claims as amended are so linked as to form a general inventive concept, and have unity of invention.

Application No. 10/585,259
Group Art Unit: 1615
Amendment dated June 19, 2009
Reply to Restriction Requirement of May 19, 2009

In view of the above, withdrawal of the restriction requirement is respectfully requested.

In the event that the above submission is not accepted by the Examiner, Applicants provisionally elect Group I (claims 1-15) for continued prosecution in this application.

Early favorable consideration of this application is earnestly solicited.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By 

Richard J. Polley
Registration No. 28,107

One World Trade Center
121 S.W. Salmon Street, Suite 1600
Portland, Oregon 97204
U.S.A.

Tel: (503) 595-5300
Fax: (503) 595-5301

JUNE 19, 2009
JJP/hnn
(93231-133)